



**DEPARTMENT OF EDUCATION**

**34 CFR Parts 600, 668, 674, 682, and 685**

**[Docket ID: ED-2021-OPE-0077]**

**RIN 1840-AD53, 1840-AD59, 1840-AD70, 1840-AD71**

**Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; Federal Perkins Loan Program; Federal Family Education Loan Program; and William D. Ford Federal Direct Loan Program; Corrections**

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Final regulations; technical corrections and correcting amendments.

**SUMMARY:** On November 1, 2022, the Department of Education (Department) published in the *Federal Register* final regulations relating to loans under the Federal Perkins Loan (Perkins) Program, the Federal Family Education Loan (FFEL) Program and the William D. Ford Federal Direct Loan (Direct Loan) Program. This document corrects technical errors in the regulations and preamble. This document does not contain any substantive changes to the regulations.

**DATES:** These corrections are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Rene Tiongquico at (202) 453-7513 or by email at [Rene.Tiongquico@ed.gov](mailto:Rene.Tiongquico@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

**SUPPLEMENTARY INFORMATION:** On November 1, 2022, the Department published in the *Federal Register* final regulations relating to loans under the Perkins Loan Program, the FFEL Program, and the Direct Loan Program (87 FR 65904), effective July 1, 2023. Those final regulations contain technical errors.

**Waiver of Proposed Rulemaking, Negotiated Rulemaking, and Delayed Effective Date:**

In accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553, the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b) (3) (B)). There is good cause to waive rulemaking here as unnecessary.

Rulemaking is “unnecessary” in those situations in which “the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” Utility Solid Waste Activities Group v. EPA, 236 F.3d 749, 755 (D.C. Cir. 2001), quoting U.S. Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 31 (1947) and South Carolina v.

Block, 558 F. Supp. 1004, 1016 (D.S.C. 1983). The regulatory changes in this document are necessary to correct technical errors and do not establish any new substantive rules and do not make substantive changes to this regulation. Therefore, the Department has determined that publication of a proposed rule is unnecessary under 5 U.S.C. 553(b)(3)(B).

In addition, under section 492 of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1098a), all regulations proposed by the Department for programs authorized under title IV of the HEA are subject to negotiated rulemaking requirements. Section 492(b)(2) of the HEA provides that negotiated rulemaking may be waived for good cause when doing so would be "impracticable, unnecessary, or contrary to the public interest." There is likewise good cause to waive the negotiated rulemaking requirement in this case, since, as explained above, notice and comment rulemaking is unnecessary.

The APA generally requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). As previously stated, because the final regulations correct errors, there is good cause to waive the delayed effective date in the APA and make the final regulations effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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#### Technical Corrections

In FR Doc. 2022-23447, published in the *Federal Register* on November 1, 2022 (87 FR 65904), we make the following technical corrections:

1. On page 65912, in the first column, in the last line of footnote 25, remove “§ 206(c)(1)” and add, in its place, “§ 685.206(c)(1)”.

2. On page 65922, in the third column, revise footnote 60 to read as follows:

"34 CFR 685.222(f)(3)."

3. On page 65928, in the first column, in the 14th line from the top of the first full paragraph, after "determines", remove "and" and add, in its place, "an".

4. On page 65942, in the third column, in footnote 102, remove "222(e)(1)(ii)" and add, in its place, "685.222(e)(1)(ii)".

5. On page 65952, in the first column, revise footnote 122 to read as follows:

"See, e.g., 34 CFR 685.222(e)(7)(iii)(B)-(C)."

6. On page 66004, in the first column, in footnote 179, in the sixth line, remove "Printing" and add, in its place, "Publishing".

7. On page 66006, in the first column, revise footnote 183 to read as follows:

"Oreopoulos, Philip and Uros Petronijevic (2013). "Making College Worth It: A Review of the Returns to Higher Education," The Future of Children, Vol. 23, No. 1, pp. 41-65."

8. On page 66008:

a. In the second column, revise the text of the sentence before the citation to footnote 192 to read as follows:

"A more detailed version of the loan volumes will be available on the Department's Federal Student Aid Data Center website."

b. Revise footnote 192 to read as follows:

"<https://studentaid.gov/data-center>."

9. On page 66009, in the first column, revise footnote 193 to read as follows:

"The table above is a summary. The complete table is available at *www.regulations.gov* using the Docket ID ED-2021-OPE-0077."

10. On page 66019, in the first column, in the fourth line, remove "bureau" and add, in its place, "Bureau".

### **List of Subjects**

#### *34 CFR Part 674*

Loan programs—education, Reporting and recordkeeping requirements, Student aid.

#### *34 CFR Part 685*

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

For the reasons set out in the preamble, the Department of Education corrects parts 674 and 685 of title 34 of the Code of Federal Regulations by making the following correcting amendments:

### **PART 674—FEDERAL PERKINS LOAN PROGRAM**

1. The authority citation for part 674 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087aa–1087hh; Pub. L. 111–256, 124 Stat. 2643; unless otherwise noted.

#### **§ 674.33 [Amended]**

2. In § 674.33, amend paragraph (g)(1)(ii)(A) by adding the word "date" before the second instance of the word "determined".

**PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

3. The authority citation for part 685 continues to read as follows:

**Authority:** 20 U.S.C. 1070g, 1087a, *et seq.*, unless otherwise noted.

**§ 685.213 [Amended]**

4. In § 685.213, amend paragraph (b)(6) heading by adding "on" after "certification,".

**§ 685.214 [Amended]**

5. In § 685.214:

a. Amend paragraph (d)(1)(i)(B) by removing "paragraph (i)" and adding, in its place, "paragraph (h)".

b. Amend paragraph (d)(1)(iii)(B) by removing "paragraph (d)" and "paragraph (e)" and adding, in their places, "paragraph (e)" and "paragraph (f)", respectively.

c. Amend paragraph (g)(7) by removing "that borrower" and adding, in its place, "the borrower".

**§ 685.219 [Amended]**

6. In § 685.219:

a. Amend paragraph (b) by:

i. In the definition of *Non-governmental public service*, removing "personnel military" and adding, in its place, "personnel, military".

ii. In the definition of *Public interest law*, removing “is” and adding, in its place, “means”.

b. Amend paragraph (g)(1) by removing “[EFFECTIVE DATE OF FINAL RULE]” and adding, in its place, “July 1, 2023”.

**§ 685.406 [Amended]**

7. In § 685.406, amend paragraph (g)(4) introductory text by removing the phrase “the dates in paragraph (g)(1) of this section” and adding, in its place, “receipt of a materially complete application”.

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Miguel A. Cardona,  
*Secretary of Education.*

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